

HAMILTON COUNTY BOARD OF COMMISSIONERS
JUNE 27, 2005

The Hamilton County Board of Commissioners met on Monday, June 27, 2005 in the Commissioners Courtroom in the Hamilton County Government and Judicial Center, One Hamilton County Square, Noblesville, Indiana. The Commissioners met in Executive Session in Conference Room 1A at 12:15 p.m. Vice President Holt called the public session to order at 1:00 p.m. A quorum was declared present of Commissioners Steven C. Dillinger and Commissioner Steven A. Holt. Commissioner Christine Altman was absent. The Pledge of Allegiance was recited.

Approval of Minutes

Dillinger motioned to approve the June 1, 2005 minutes of the Hamilton County Board of Commissioners and Hamilton County Council meeting. Holt seconded. Motion carried unanimously. Holt asked to save the June 13th minutes for approval on July 11, 2005.

Executive Session Memoranda

Dillinger motioned to approve the June 27, 2005 Executive Session Memoranda. Holt seconded. Motion carried unanimously.

Plat Approvals

Noblesville Fire Station #6

Mr. Mike McBride presented the secondary plat for Noblesville Fire Station #6 for approval. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Cass Estates, Section 1

McBride presented the plat for Cass Estates, Section 1 for approval. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Highway Business

Road Cut Permits

Mr. Jim Neal requested approval of Open Road Cut Permits 1) RDCUT 2005-016 - Summit Custom Homes, Inc. - Location: 1045 & 1047 E. 108th Street approximately 280 feet east of Cornell Street on 108th for a tap into water main for a home. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Acceptance of Bonds/Letters of Credit - Highway Department

Neal requested acceptance of Bonds and Letters of Credit for the highway department. 1) HCHD #B-93-0062 - American States Insurance Company Continuation Certificate Bond No. EX 864173 issued on behalf of Dotlich Contractors Inc. in the sum of \$25,000 to now expire June 10, 2006. 2) HCHD #B-03-0049 - Western Surety Company Continuation Certificate Bond No. 43170814 issued on behalf of S&W Sewer & Water, Inc. dba A&B Excavating, to now expire May 21, 2006. 3) HCHD #B-05-0002 - American States Insurance Company Surety Rider Bond No. 6329937 issued on behalf of Summit Custom Homes, Inc., changing the dollar amount from \$5,000 to \$10,000 effective May 5, 2005. 4) HCHD #B-05-0046 - The Cincinnati Insurance Company License Bond No. B8871357 issued on behalf of Hoosier Tradewinds, Inc. in the sum of \$15,000 for driveway permit - 236th Street & Dunbar Road to expire June 6, 2006. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Release of Bonds/Letters of Credit - Highway Department

Neal requested the release of a Bond for the highway department. 1) HCHD #B-03-0121 - Lyndon Property Insurance Company Subdivision Bond No. SRE 1000515 issued on behalf of Northside Investments LLC for Long Branch Section 3 streets and curbs. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Agreements [1:02:47]

Hinkle Creek Estates Subdivision Inspection Agreement

Neal requested approval of a Subdivision Inspection Agreement, HCHD #A-05-0004, for Hinkle Creek Estates Subdivision, Section 2. The agreement is with USI Consultants (engineer) and RDJ Custom Homes (developer). Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Bridge #110 Utility Agreements

Neal requested approval of Utility Agreement, HCHD #M-05-0018 with Insight Communications and Utility Agreement, HCHD #M-05-0019 with Verizon for Bridge #110, Grassy Branch Road over Cool Creek. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Bridge #110 Supplemental Agreement No. 2

Neal requested approval of Supplemental Agreement No. 2, HCHD #E-03-0006 with Beam, Longest and Neff, LLC for Bridge #110, Grassy Branch Road over Cool Creek. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Bridge #257 Supplemental Agreement No. 3

Neal requested approval of Supplemental Agreement No. 3, HCHD #E-02-0011 with Beam, Longest and Neff, LLC for Bridge #257, Lantern Road over Shoemaker Ditch. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Bridge #68 Engineering Agreement

Neal requested approval of Engineering Agreement, HCHD #E-05-0006, with DLZ Indiana LLC, for Bridge #68, 281st Street over Duck Creek. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Bridge Inventory Inspection Services Agreement

Neal requested approval for an agreement for bridge inspection services, HCHD #M-05-0007, with United Consulting. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Bridge Inventory County-State Bridge Inspection Agreement

Neal requested approval of a County-State Agreement for Bridge Inspection, HCHD #M-05-0020, with the State of Indiana. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Bridge #191 Construction Engineering Agreement

Neal requested approval of Construction Engineering Agreement, HCHD #E-05-0008, with United Consulting Engineers & Architects for Bridge #191, Olio Road over Geist Reservoir. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Traffic Study Correspondence

Neal requested approval of the list of correspondence concerning investigations of requests for signage on Hamilton County Roads dated June 27, 2005. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

146th Street Extension

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Neal requested approval of a letter to the Indiana Department of Transportation (INDOT) assuring them that we will follow all federal guidelines during the right of way acquisition for the 146th Street Extension project. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Victory Chapel Road Closure

Neal requested permission to close Victory Chapel Road between 196th Street and 206th Street for 60 days for a bridge replacement project. Closure is expected to begin June 28, 2005. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Permission to Advertise

Resurface Contract 05-3, Various Roads in Jackson Township

Neal requested permission to advertise for Contract Resurface Project 05-3, Various Roads in Jackson Township. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

MPO Policy Meeting

Mr. Brad Davis reminded the Commissioners about the MPO Policy meeting on Wednesday, June 30th at 9:00 am in the City-County Building. They will not be voting on alignment or technology for the transit system. They may be discussing and possibly voting on some other members to put on the RTA Board.

Highway Meeting

Davis stated the Commissioners have a scheduled Friday morning meeting at the highway department, July 1, 2005 at 7:30 a.m.

96th Street Intersection

Davis stated the county's application for federal aid for the 96th Street and Fall Creek intersections is moving along. It is in the technical committee.

Attorney [1:11:19]

Escrow Agreement - Juvenile Services Center

Mr. Mike Howard requested approval of a Retainage Escrow Agreement for Chance Brothers Marble & Tile, Inc. for the Juvenile Services Center. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Westfield Interlocal Agreement

Howard requested approval of an interlocal agreement between the Town of Westfield and Hamilton County concerning the issuance of bonds and payment of expenses from the Village Park Economic Development Area. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Administrative Assistant [1:14:55]

2006 Commissioners Budget

Mr. Fred Swift informed the commissioners he has submitted the 2006 Budget to the Auditor's office. He did amend the vehicle line item to \$70,000. Weights & Measures and the Parks Department have requested vehicles.

2006 4-H Council Budget

Swift stated the 4-H 2006 Council Budget request requires no action by the commissioners. It has been submitted to the Auditor.

Request for Use of Facilities

Swift stated The Republican Party has requested to use the commissioners courtroom for a Model Government Project. They will meet two times a month from October thru March on Thursday evenings. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Boxley Cabin

Swift stated the Commissioners received a letter from the DNR stating that the George Boxley cabin has been nominated for the National Historic Register. Dillinger motioned to have Swift send a letter to the DNR supporting the cabin being placed on the National Historic Register. Holt seconded. Motion carried unanimously.

Browning Day Construction Management Services Agreement

Swift stated Larry Dawson, Envoy, has recommended not signing the proposed construction management services agreement from Browning Day for the Prosecutor's office expansion. Dawson has recommended reserving the right to call Browning Day on an as needed basis. Dillinger motioned to not enter into the agreement but reserve the right to call Browning Day at Scott Warner's discretion. Holt seconded. Motion carried unanimously. Swift will draft the letter to Browning Day.

Appointments [1:22:47]

Carmel Public Library Board

Dillinger nominated Jim Garretson to replace John Proffitt on the Carmel Public Library Board. Holt seconded. Motion carried unanimously.

Community Corrections Advisory Board

Dillinger motioned to re-appoint Beth Gehlhausen, Harold McBride, LeeAnn Cook, Martin Groff, Roger Drayer, Madonna Wagoner and Joyce Rand to the Hamilton County Community Corrections Advisory Board. Holt seconded. Motion carried unanimously.

Hamilton East Public Library Board

Holt motioned to appoint Rex Dillinger to replace Jane Gasch on the Hamilton East Public Library Board. Dillinger seconded. Motion carried unanimously.

Hamilton County Economic Development Commission

Dillinger motioned to re-appoint Joe Edwards to the Hamilton County Economic Development Commission. Holt seconded. Motion carried unanimously.

Riverwalk Committee

Dillinger motioned to re-appoint Steve Schwartz to the Riverwalk Committee. Holt seconded. Motion carried unanimously.

AIC County Achievement Award

Swift stated July 1st is the deadline to enter the AIC County Achievement Award contest. Hamilton County's ISS Department would like to submit applications for the County Achievement Award and Local Government Cooperation Award. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Noblesville Street Dance

Swift stated the Noblesville Street Dance is July 16, 2005. Dillinger motioned to assign two sheriff's deputies to patrol the historic courthouse lawn during the street dance. Holt seconded. Motion carried unanimously.

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Noblesville Meeting

Holt stated Pat Long has requested a meeting between Noblesville and the Commissioners. Davis will invite him to the September Friday morning highway meeting.

Sheriff [1:32:08]

Security Committee

Sheriff Doug Carter stated they are working with the City of Noblesville to get the parking passes for the loading area. Scott Warner is working on scheduling a date for the Security Committee to meet with the total notification system vendor.

Change Order - Juvenile Services Center

Howard requested approval of a change order from James Babcock, Inc. for the Juvenile Services Center in the amount of \$11,210. Envoy and RQAW have recommended its approval. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

New World Software Maintenance Agreement

Ms. B.J. Casali, appearing on behalf of Commissioner Altman, who is requesting a meeting of the E-911 Committee to discuss funding of the New World Software Maintenance Agreement. The software is being purchased from the Homeland Security Grant. There is a pre-pay discount offered on the software maintenance. Dillinger asked why should the 911 fund pay for the maintenance? Casali stated the software will be used by Carmel and Fishers Police Departments, the Hamilton County Sheriff, Atlanta and Arcadia. The software will not be used by Noblesville and Westfield. Dillinger stated if we allow this, then how could we not allow the same for Noblesville and Westfield? Is it appropriate to use the 911 funds for this? Casali stated it is an interoperability grant and the software will share data with Noblesville and Marion County. Sheriff Carter stated it will have a direct effect on Noblesville and Westfield. The 911 dollars have been approved for other projects within the City of Noblesville upon their request. This will have a direct impact on Westfield and Noblesville through the interface. They will realize a significant change in data communications as well as voice communications. Carter is encouraging this use of 911 funds. It will have a direct impact on those services that we receive via telephone connects and it falls under the statutory guidelines. Casali stated this is a dispatch issue with a new fiber system between Carmel and the Sheriff's department. There will be two servers running simultaneously within nano seconds with the same data. Dillinger stated they will look at it.

Auditor

Escrow Agreement - Juvenile Services Center

Ms. Robin Mills requested signatures on an Juvenile Services Center Retainage Escrow Agreement for Weigand Construction Company (contractor) and Star Financial Bank (agent), which was approved at a previous meeting but not signed.

Personnel Committee Letter

Mills stated the Personnel Committee will be sending a letter to the elected officials and department heads regarding new positions, vacancies, and transfer of positions.

Liability Trust Claim

Mills requested approval of a Liability Trust Claim payable to St. Paul Travelers in the amount of \$3,857.72. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

2006 Holiday Schedule

Mills requested approval of the 2006 Holiday Schedule. Dillinger motioned to approve. Holt seconded. Motion carried unanimously. [1:45:12] Dillinger motioned to close at noon on December 22, 2006. Holt seconded. Motion carried unanimously. [2:23:18] Dillinger stated he meant to include closing at 12:00 noon on December 23, 2005.

Clerk of the Circuit Court Monthly Report

Dillinger motioned to approve the May 2005 monthly report of the Clerk of the Circuit Court. Holt seconded. Motion carried unanimously.

Treasurer's's Monthly Report

Dillinger motioned to approve the May 2005 Treasurer's Monthly Report. Holt seconded. Motion carried unanimously.

Acceptance of Bonds/Letters of Credit - Drainage Board

Mills requested acceptance of Bonds and Letters of Credit for the Drainage Board. 1) HCDB-2005-00049 - The Ohio Casualty Insurance Company Performance Bond No. 3-807-838 for the regulated drain 2005 spray contract - \$14,668. 2) HCDB-2005-00049A - The Ohio Casualty Insurance Company Payment Bond No. 3-807-838 for the regulated drain 2005 spray contract - \$14,668. 3) HCDB-2005-00050 - Fifth Third Bank Irrevocable Standby Letter of Credit No. CIS403962 for the reconstruction of the Elwood Wilson drain across the Kahlo Jeep site - \$132,900. 4) HCDB-2005-00060 - Bond Safeguard Insurance Company Subdivision Performance Bond No. 5016965 for the Village of West Clay, Section 9002 - erosion control - \$56,400. 5) HCDB-2005-00062 - Bond Safeguard Insurance Company Subdivision Performance Bond No. 5016963 for the Village of West Clay, Section 9002 - monuments and markers - \$6,720. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Release of Bonds/Letters of Credit - Drainage Board

Mills requested release of Bonds and Letters of Credit for the Drainage Board. 1) HCDB-99-023 - Developers Surety and Indemnity Company Subdivision Performance Bond No. 8851598S for Gray Eagle Subdivision - Booth Snead Drain Reconstruction - \$62,944. 2) HCDB-2004-000335 - Lexon Insurance Company Subdivision Performance Bond No. 1003948 for Village of Towne Pointe erosion control - \$10,000. 3) HCDB-2004-00036 - Lexon Insurance Company Subdivision Performance Bond No. 1003947 for Village of Towne Point storm sewers onsite and offsite - \$191,757. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Payroll Claims

Mills requested approval of Payroll Claims for the period of May 23, 2005 - June 5, 2005 paid June 17, 2005 and June 6, 2005 - June 19, 2005 paid July 1, 2005. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Vendor Claims

Mills requested approval of Vendor Claims to be paid June 28, 2005. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Barrington Estates Sewers [1:48:00]

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Mr. Dan Hawkins, homeowner in Barrington Estates Subdivision, stated in 2003 he addressed the commissioners regarding the sewer problem in Barrington Estates. At that time he stated that the lack of sewers in Barrington Estates should not end up costing him any money. He installed a septic system in accordance with the rules and everything was working fine for him. This last week the homeowners whom are not currently hooked up to the sewer system received letters that we were to hook up within 120 days, at a tremendous financial cost. Several homeowners were sold lots with the understanding that even though their houses were not approved for septic that a sewer hook up was available or would be available during the construction, which turned out not to be true. Through litigation seven of the lots on holding tanks were converted to the main sewer system. There have been two additional homes with septic failures which have now hooked up to this sewer system. His home did not fall in to either of these categories, his septic system is over engineered. He spent extra money to put in an extra dosing tank and extra fingers, which was well over \$12,000 invested in a septic system. One homeowner is being asked to hook up whose septic system is less than one year old. He does not know what extent the Health Department was involved in the litigation. The main purpose was to allow the homeowners to get off the holding tanks and allow future development in Phase 2. Numerous times during this process Hawkins spoke with Ken Cochran, of Hamilton Southeastern Utilities, to confirm that what he had been told about not having to hook up to this system was correct. He was asked to put in a lateral in case he would need to hook up due to a septic failure. Hawkins has an agreement, signed by the homeowners association, which they believed protected them from this eventuality. It was their understanding that existing homeowners with working septic would not be asked to hook on to the sewer system. It does not appear that the health department was on board with any of this. Hawkins has not received any notification about anything until this time. There has been a total lack of communication. There is a force main system, which is not a traditional municipal sewer system, it is a glorified septic system with limited capacity. The best thing to do to keep that system's longevity is to limit hooks up to those that are absolutely necessary. Hawkins stated it was his understanding that this was to be a interim solution until a more traditional system could be brought out. The health department is citing an ordinance that states that any home within 300 yards must hook up. There are homes within the subdivision that fall within the 300 yards that did not receive letters. Their properties would represent a greater risk of septic failure. They are older and their systems are not built to the standards that a lot of homeowners have within the subdivision. He does not believe he should be forced to hook up to this sewer system. His system functions very well and falls within the county requirements. Hawkins stated he did not create this problem. It was created by lies, mis-statements and mis-understandings by a number of parties, none of which is him. At no point was he ever contacted about input into anything.

Howard stated under the agreement, Cole Developers was to pay the fees for the people who needed to hook on. He has correspondence between the attorney for the Town of Fishers (operator of system) and Hamilton Southeastern Utilities where they are citing Cole for contempt. Howard stated the issue is whether it has failed or not. Within the development we know that Cole disturbed much of the soil. The health department's issue is that when there is a municipal system available it is best to be in the municipal system. This area is served by wells and as a general rule you don't want septics. The agreement directed that Cole pay these costs. The health department does have the authority to compel persons to hook on whether they perceive their system is working or not working. Howard stated there was nothing in the county's representation that brought the health department online but it was always presumed in the negotiations that everyone would hook on. The negotiations presumed that if all the systems were not failing, they would be soon. Hook on fees for Hawkins would be approximately \$3,000 which is less than some of the other homeowners. Howard stated you will stay have to pay the costs for connecting your outflow from your home into the sewer. Hawkins stated he does not believe they fall under any Barrett's law funding and he does not know how any family can come up with the amount of money they are talking about.

Mr. Jason LeMaster, Director of Environmental Health for the Hamilton County Health Department, stated Mr. Hawkins is one of the two homeowners who have done their best to manage their systems from the beginning. The soil conditions are very poor, the functioning of the septic systems are very limited. The aerial photos from 2001 to 2004 have showed three more septic failures that are occurring. One house the system was installed in 2001 and the health department has had five complaints since then for sewage discharge. The soil conditions for septics will not last. Once the developer began discussions of bringing sanitary sewers in, the health department was out of the discussions. This is one of the worst subdivision for soil conditions for development of septic systems.

Howard stated we know Cole will not pay. Does Hawkins septic system pose a health issue that the commissioners should affirm the health department's position? LeMaster stated for Mr. Hawkins individual system, probably not. Right now there are 11 houses that are not hooked up, there are four houses in failure. The purpose of bringing in the sewer was to connect all of the homes, which we were under the assumption that all of the homes will be connected. We thought the 120 days was a reasonable time frame to hook up to the sewer system. They would work with Mr. Hawkins if that is not a reasonable time frame to hook up. The few houses that are in failure and are not hooked up will receive 30 day letters tomorrow. City utilities have the ability to compel people to connect. Hamilton Southeastern Utilities is a private utility and they do not have the ability to compel people to hook up. Dillinger asked if the ultimate plan is that Fishers is planning on annexing Barrington Estates? Howard stated he does not know if that was a condition. Dillinger stated in his opinion the developer should be paying all of it. LeMaster stated the health department is treating several mosquito breeding sites out there due to the sewer conditions. The package treatment plant is engineered for about 35,000 gallons per day. With the seven homes that are connected it is receiving about 3,000 gallons per day which is a problem with sewer treatment plants. It is not receiving consistent water flows at volumes that are needed to keep the treatment plant working effectively. Holt asked who enforces Cole to pay the hook-up fees? Howard stated the Town of Fishers is filing a contempt citation, as owners of the treatment plant. Holt asked how can we help Mr. Hawkins? Howard stated the enforcement agency is the health department in their own act. He is not sure the commissioners have the power to over rule them. Howard asked LeMaster if it is not the health departments problem to worry about the economic vitality of the treatment plant, is there a public health issue to allow several of these homeowners to use their existing system until their failure occurs? LeMaster stated there is not a public health issue, but we will have to continue to monitor which will take time. We will have to "babysit" septic systems waiting for them to fail. Howard stated the most the commissioners could do is a recommendation to the health department that unless there is septic failure that the health department, in their discretion, do not mandate the connection. Howard stated there is a lawsuit for the developer to pay the hook up fees, but that is half of the expense. The connection point at the house has to be reversed, taken out to the front to hook to the municipal sewer. The tap on fee is the tip of the iceberg. Holt stated Hawkins was required to put a lateral in when he built the septic system. Hawkins stated he is better than most, his septic system is to the side of his home. If the developer is willing to pay the

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majority of the costs he would be willing to compromise. Howard asked Hawkins if the developer agrees to pay the hook on fees, would he agree to pay the remaining costs? Hawkins stated without examining the total costs, that would be his best option. Dillinger stated eventually Hawkins will have to hook on to the sewer system. Hawkins did not disagree. Holt asked LeMaster if it would be logical for the commissioners to pass a resolution to send to the health board that you exercise forbearance with this particular system with Mr. Hawkins until such time as it fails or Cole is forced to pay the hook on fee. LeMaster stated that would be acceptable to the health board. Dillinger so moved. Holt seconded. Dillinger amended the resolution requesting that the Board of Health overlook anyone who has a satisfactory unit until failure happens. LeMaster stated it is an easy call to make. Holt seconded the amendment. Motion carried unanimously.

Plan Commission Fee Ordinance [2:15:06]

Mr. Chuck Kiphart, Director of Hamilton County Plan Commission, presented an ordinance amending the Hamilton County Zoning Ordinance Fee Schedule. The Plan Commission unanimously approved this fee schedule. Fees will be effective January 1, 2006. Dillinger motioned to approve. Holt seconded. Motion carried unanimously. Dillinger motioned to adjourn. Holt seconded. Motion carried unanimously.

Commissioners Correspondence

George Boxley Cabin DNR Notice of Application as National Historic Register Applicant
INDOT County Bridges, 20' or Greater Preliminary Engineering Agreement

Present

Steven C. Dillinger, Commissioner
Steven A. Holt, Commissioner
Robin M. Mills, Auditor
Kim Rauch, Administrative Assistant to Auditor
Fred Swift, Administrative Assistant to Commissioners
Michael A. Howard, Attorney
Doug Carter, Sheriff
Brad Davis, Highway Director
Jim Neal, Highway Engineer
Virginia Hughes, Administrative Assistant to Highway Engineer
Amber Emery, Highway Public Service Representative
Mike McBride, Highway Technical Engineer
Mark Fisher, Highway Technical Engineer
Christopher Burt, Highway Staff Engineer
Tim Knapp, Highway Right-of-Way Specialist
Joel Thurman, Highway Project Engineer
Matt Knight, Highway Staff Engineer
Kathy Howard, Highway Department
Bob Davis, Highway Superintendent
Patti Smith, Beam, Longest & Neff
Kayleen Proctor, FEBA
Floyd Burroughs, FEBA
Dan Hawkins, Barrington Estates
John Barbee, Envoy, Inc.
Chuck Kiphart, Plan Commission
Jason LeMaster, Health Department

APPROVED
HAMILTON COUNTY BOARD OF COMMISSIONERS

ATTEST

Robin M. Mills, Auditor